

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

John C. Votta, Jr.
d/b/a/ Golden Auto, L.L.C.

v.

Civil No. 07-cv-246-JL

Virginia Beecher, Director,
Department of Motor Vehicles,
New Hampshire Department of Safety

REPORT AND RECOMMENDATION

Plaintiff, proceeding pro se, filed a complaint (document no. 1) that initially came before the Court for preliminary review. On November 14, 2007, a Report and Recommendation (document no. 7) issued recommending dismissal of the complaint because plaintiff, a corporation, could not proceed pro se. That recommendation specified that, if the Report and Recommendation were approved, the dismissal of the action would be without prejudice to the complaint being refiled by counsel admitted to the bar of this Court.

Plaintiff then filed a response (document no. 8) to that Report and Recommendation, as well as an amended complaint (document no. 9). Plaintiff sought to amend the complaint to

recast the complaining party as an individual, rather than a corporation.

Finding that Votta could not, in his capacity as an individual and a non-party to the action, file an amended complaint, I again recommended dismissal of the action (document no. 10). In that recommendation, I explained in some detail that a corporation must be represented by counsel in this Court, and that in an action filed by a corporation, pleadings, including amended complaints, can only be filed by an attorney acting on the corporation's behalf. Votta filed a response (document no. 11) to the Report and Recommendation, and filed another amended complaint (document no. 12), stating that his business, Golden Auto, is a sole proprietorship and not a limited liability corporation. There is no question, however, that this lawsuit was filed by a corporation, as the initial complaint identifies the plaintiff as Golden Auto, L.L.C. As fully explained in my previous Report and Recommendations in this matter (document nos. 7 & 10), actions and pleadings submitted on behalf of a corporation must be filed by counsel. See United States District Court District of New Hampshire Local Rule 83.6(c) ("A

corporation or unincorporated association may not appear in any action or proceeding pro se.").

Accordingly, the complaint in this action cannot be amended by Votta. It must be amended by counsel, as the only plaintiff in this case is a corporation. Votta is free to file a new action, and again apply for in forma pauperis status, on his own behalf, asserting rights that accrue to him as an individual. I maintain my recommendation, however, that this action be dismissed.

Any objections to this report and recommendation must be filed within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the district court's order. See Unauthorized Practice of Law Comm. v. Gordon, 979 F.2d 11, 13-14 (1st Cir. 1992); United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986).


James R. Muirhead
United States Magistrate Judge

Date: September 23, 2008

cc: John C. Votta, Jr., d/b/a Golden Auto, L.L.C.